

Superseded by Amendment of Tenn. Code Ann § 7-86-108

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Office of the Attorney General
State of Tennessee

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Applying 911 Service Charge to Cellular Phones

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QUESTION

Tenn. Code Ann. § 7-86-108 authorizes an emergency communications district to impose a monthly fee on residential and business "service users" to fund 911 emergency telephone service. May the district levy this fee on cellular phone users?

OPINION

Under the current statute, the district may not levy this fee on cellular phone users.

ANALYSIS

Emergency communications (E-911) districts are established and operate under the Emergency Communications District Law, Tenn. Code Ann. §§ 7-86-101, et seq. ("the Act"). The Act authorizes the directors of the E-911 district to levy an "emergency telephone service charge" on telephone "service users". Tenn. Code Ann. § 7-86-108(a)(1) (Supp. 1995). The Act defines "service user" as "any person, corporation or entity who or which is provided 911 service." Tenn. Code Ann. § 7-86-103(8) (Supp. 1995). The Act defines "911 service" to include:

regular 911 service enhanced universal emergency number service or enhanced 911 service which is a telephone exchange communications service whereby a public safety answering point may receive telephone calls dialed to the telephone number 911. "911 service" includes lines and may include the equipment necessary for the answering, transferring and dispatching of public emergency telephone calls originated by persons within the serving area who dial 911

Tenn. Code Ann. § 7-86-103(11) (Supp. 1995). Under this definition, any user who can reach the answering point by dialing 911 is provided 911 service. Literally, a cellular phone customer who can reach the answering point by dialing 911 would be a "service user" under this definition. The Act as a whole, however, reflects no

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method of billing this charge to cellular phone customers. The statute authorizing the district to levy the charge indicates that the charge will be billed by the "service supplier" to "service users." Tenn. Code Ann. § 7-86-108(d) (Supp. 1995). The Act defines the term "service supplier" to mean, "any person, corporation or entity providing exchange telephone service to any service user." Tenn. Code Ann. § 7-86-103(7) (Supp. 1995) (emphasis added). The Act provides no definition of "exchange telephone service." But the Act contains the following definition of "exchange access facilities":

"Exchange access facilities" means all lines, provided by the service supplier for the provision of exchange telephone service, as defined in existing general subscriber services tariffs filed by the service supplier with the public service commission;

Tenn. Code Ann. § 7-86-103(4) (Supp. 1995) (emphasis added). [FN1] Further, the Act provides that the "service supplier" is to bill the district for its service, "at the applicable rate as set forth in the service supplier's tariff on file with the public service commission for such service" [FN2] Tenn. Code Ann. § 7-86-111 (Supp. 1995). Under state law, the Public Service Commission may only regulate the rates of certain cellular phone service providers. Tenn. Code Ann. § 65-4-101(a) (6) (Supp. 1995) (as further amended by 1995 Tenn. Code Ann. Ch. 305, § 20, effective July 1, 1996). In addition, there is a distinction in the statutes between "domestic public cellular radio telephone service" and "[b]asic local exchange telephone services." Compare Tenn. Code Ann. § 65-4-101(a) (6) (Supp. 1995) with Tenn. Code Ann. § 65-5-208(a) (1) (Supp. 1995). Read together, these statutes reflect an intent to limit the term "service supplier" in the Emergency Communications District Law to a phone company that is subject to regulation by the Public Service Commission and that supplies exchange telephone service through physical telephone lines. The Act authorizes only such a service supplier to bill the emergency telephone service charge to its customers. Thus, even if an emergency communications district were authorized to impose the charge on cellular phone users, the Act does not authorize the district to require a cellular phone company to bill the charge to its customers. Thus, the Act provides no billing mechanism for such charges.

*2 The primary rule in statutory construction is to give effect to the legislative intent. *Mercy v. Olsen*, 672 S.W.2d 196 (Tenn. 1984). The meaning of a statute is to be determined not from special words in a single sentence or section but from the statute taken as a whole and viewing the legislation in the light of its general purpose. *State ex rel. Bastnagel v. City of Memphis*, 224 Tenn. 514, 457 S.W.2d 532 (1970). "Statutes forming a single statutory scheme should be construed together to make the system consistent in all its parts and uniform in its operation." *Wayne County v. Tennessee Solid Waste Disposal Control Bd.*, 756 S.W.2d 274, 282 (Tenn. Ct. App. 1988) (citing *Westinghouse Elec. Corp. v. King*, 678 S.W.2d 19, 23 (Tenn. 1984)). Reading the Act as a whole, this Office concludes that the General Assembly did not intend the emergency telephone service charge under Tenn. Code Ann. § 7-86-108 to extend to cellular telephone users.

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[FN1]. Effective July 1, 1996, this section has been amended to read: "'Exchange access facilities' means all lines, provided by the service supplier for the provision of exchange telephone service, as defined in existing general subscriber services tariffs filed by the service supplier with the Tennessee regulatory authority." 1995 Tenn.Pub.Acts Ch. 305, § 86.

[FN2]. Effective July 1, 1996, the term "Tennessee regulatory authority" is substituted for "public service commission." 1995 Tenn.Pub.Acts Ch. 305.

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